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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/806,356
Filing Date: March 29, 2001
Appellant(s): KIRCHER, JENS

Kircher, J.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/ 30/2006 appealing from the Office action mailed 2/23/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5909183	Borgstahl et al.	06-1999
5723911	Glehr	03-1998
5917405	Joao	06-2000

6239700 Hoffman et al. 05-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 18-21, 23, 29-31, and 35-37 are rejected under rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. U.S Patent 5909183 in view of Glehr U.S Patent 5723911.

Regarding claims 18 and 29, Borgstahl et al. teaches a method for constructing a data connection between an integrated household control system (col. 4 lines 12-18) and a mobile data terminal (34) located outside the base of the integrated household control system (col. 5 lines 38-44). Borgstahl et al. teaches communication between the data terminal and the household control system formed by the device 20 is based on proximity (col. 5 lines 43-45) which further represents the automatic construction of the data connection with the integrated household control system if one reaches a predetermined region surrounding the household control base. The proximity detection (col. 5 lines 16-20) represents position determining as defined by the specification (page 7 line 26-page 8 line 3) because position detection as describe

by the specification consist of determining when the controller device is with a certain range of the device to be controlled. Borgstahl et al. is not explicit in teaching a position determining device. Glehr in an art related controller device teaches a portable device having a component that serves as the position determining device (distance detecting device) (col. 3 lines 65-67) in order to determine when the portable terminal is proximate to the system to be controlled.

It would have been obvious to one of ordinary skill in the art to have a positioning determining device coupled to the mobile terminal in Borgstahl et al. as evidenced by Glehr because Borgstahl et al. suggests communication between the mobile terminal and household control system is enabled when the mobile terminal is proximate to the household control system and the position determining device serves the purpose of detecting when the mobile terminal is proximate to the device to be controlled.

Regarding claim 19, Borgstahl et al. teaches the data connection between the data terminal and the integrated household control system is constructed via a mobile radio network (col. 5 lines 38-41).

Regarding claim 20, Borgstahl et al. teaches the data connection between the data terminal and the integrated household control system is constructed via the internet (col. 9 lines 62-66).

Regarding claim 21, Borgstahl et al. teaches the household control system transmits alarms to the controller (col. 15 line 65-col. 16 line 3). The communication between the household control system and the data terminal is based on a request followed by a response protocol as shown in figure 21 (data is not simultaneously transmitted from the household

control system and the data terminal). Therefore data is transmitted from the household control system to the data terminal when there is no existing connection in the opposite direction.

Regarding claim 23, Borgstahl et al. teaches the use of a peer-to-peer device as the data terminal (col. 5 lines 42-45) and further teaches the use of a computer as the peer-to-peer device (col. 4 lines 1-4). Borgstahl et al. therefore teaches the use of a computer as a data terminal.

Regarding claim 30, Borgstahl et al. teaches the data terminal (34) communicating with the household control system based on proximity (col. 5 lines 38-44) and the remote device send data to the household control system (20) as shown in task 96 and task 98 of figure 10. Borgstahl et al. further teaches an example of a remote device controlling an appliance in which the remote controller displays available commands and the corresponding icons associated with the commands (col. 16 lines 24-27). The computer program that allows the display of the available command is considered a browser and Borgstahl et al. further teaches communication by the internet (col. 9 lines 62-66).

Regarding claim 31, Borgstahl et al. teaches a wireless network (col. 3 lines 65-67) and mobile (portable) station (col. 4 lines 41-45).

Regarding claims 35-37, Borgstahl et al. teaches a method (figure 17) for constructing a data connection between an integrated household control system and a data terminal (col. 13 lines 32-35) comprising coupling the data terminal with a mobile positioning determining device

evidenced by the data terminal detecting its proximity to a device to be controlled (col. 5 lines 43-45), wherein the data terminal (121) is mobile (col. 13 line 36), and controlling the data terminal by the position determining device in such a way that if the distance from the household control base reaches a predetermined region surrounding the household control base (col. 13 lines 35-36), automatically initiating the construction of the data connection with the integrated household control system via a mobile interface of the data terminal (col. 13 lines 36-40). Borgstahl et al. further teaches an example of a remote device controlling an appliance in which the remote controller displays available commands and the corresponding icons associated with the commands (col. 16 lines 24-27). The computer program that allows the display of the available command is considered a browser and Borgstahl et al. further teaches communication by the internet (col. 9 lines 62-66). Borgstahl et al. is not explicit in teaching a position determining device. Glehr in an art related controller device teaches a portable device having a component that serves as the position determining device (distance detecting device) (col. 3 lines 65-67) in order to determine when the portable terminal is proximate to the system to be controlled.

It would have been obvious to one of ordinary skill in the art to have a positioning determining device coupled to the mobile terminal in Borgstahl et al. as evidenced by Glehr because Borgstahl et al. suggests communication between the mobile terminal and household control system is enabled when the mobile terminal is proximate to the household control system and the position determining device serves the purpose of detecting when the mobile terminal is proximate to the device to be controlled.

Claims 22, 24, 25, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. U.S Patent 5909183 in view of Glehr U.S Patent 5723911 and further in view of Joao U.S Patent 5917405.

Regarding claims 22 and 24, Borgstahl et al. in view of Hashimoto et al. teaches the use of a computer as a data terminal (col. 4 lines 1-4) but is silent on teaching the mobile data terminal is disposed in a motor vehicle and also serve to control motor vehicle function. Joao in an art related control system invention teaches a mobile data terminal (figure 1) disposed in a vehicle and control vehicle function and household appliance (col. 5 lines 52-67).

It would have been obvious to one of ordinary skill in the art for the mobile data terminal is disposed in a motor vehicle and also serve to control motor vehicle function in Borgstahl et al. in view of Hashimoto et al. as evidenced by Joao because Borgstahl et al. in view of Hashimoto et al. teaches the use of a computer as a data terminal and Joao teaches a mobile data terminal disposed in a vehicle and control vehicle function and household appliance.

Regarding claims 25 and 32, Borgstahl et al. teaches the use of a data terminal to transmit control information (figure 21) but is silent on teaching an Internet telephone serves as the data terminal. Joao in an art related control system invention teaches the use of a telephone as a data terminal (col. 72 line 56-col. 73 line 7) for connecting to a household control system.

It would have been obvious to one of ordinary skill in the art to have a telephone serve as the data terminal in Borgstahl et al. in view of Hashimoto et al. as evidenced by Joao because Borgstahl et al. in view in view of Hashimoto et al. suggests the use of a data terminal to transmit

control information to household control system and Joao teaches the use of a telephone as a data terminal for connecting to a household control system.

Claims 26-27 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. U.S Patent 5909183 in view of Glehr U.S Patent 5723911 and further in view of Hoffman et al. US patent 6239700.

Regarding claims 26 and 33, Borgstahl et al. teaches a navigation device which determines the proximity of the remote control to the device be controlled (col. 5 lines 16-20) but is silent on teaching at least one component of the navigation device serves as a position determining device. Hoffman et al. in an art related tracking system teaches combining a mobile navigation device with a position determining device (col. 5 lines 42-53) in order to provide a practical device for providing security and tracking.

It would have been obvious to one of ordinary skill in the art for the navigation device serves as a position determining device in Borgstahl et al. in view of Glehr as evidenced by Hoffman et al. because a practical device for providing security and tracking functions.

Regarding claims 27 and 34, Borgstahl et al. teaches the mobile of system (figure 2) uses RF communication (col. 14 line 47) therefore the mobile system is considered a mobile radio system but is silent on teaching at least one component of the radio device serves as a position determining device. Hoffman et al. in an art related tracking system teaches combining a mobile navigation device with a position determining device (col. 5 lines 42-53) in order to provide a practical device for providing security and tracking.

It would have been obvious to one of ordinary skill in the art for the navigation device serves as a position determining device in Borgstahl et al. in view of Glehr as evidenced by Hoffman et al. because a practical device for providing security and tracking functions.

(10) Response to Argument

Appellant argues on page 7 that the reference of Borgstahl fails to teach an if-then condition with respect to the initiating of the data connection. It is the examiner's position that Borgstahl et al. teaches communication between the data terminal and the household control system formed by the device 20 is based on proximity (col. 5 lines 43-45). The if-then condition with respect to the initiating of the data connection is therefore disclosed by Borgstahl because communication between the household control system and the data terminal is establish if the data terminal is in proximity to the household control system.

Appellant argues on page 7 that the reference of Borgstahl fail to teach the limit value or the region is predetermined because the threshold is random depending on the environment, it is the examiner's position that the random threshold taught by Borgstahl is considered predetermined and the appellant statement that the threshold is random based on the environment further agrees with the fact that the threshold is predetermined based on the environment. The reference of Glehr is further relied upon for teaching the use of a distance detecting device that serves as a position determining device in a controller device (col. 3 lines 65-67).

Appellant argues on page 8 that it is not obvious to one of ordinary skill in the art to combine the references of Borgstahl and Glehr. It is the examiner's position that it would have obvious to one of ordinary skill in the art to combine the references of Borgstahl and Glehr

because Borgstahl et al. teaches communication between the mobile terminal and household control system is enabled when the mobile terminal is proximate to the household control system and the distant detecting device as disclosed by Glehr serves the purpose of detecting when the mobile terminal is proximate to the device to be controlled.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Vernal Brown

Conferees:

Daniel Wu

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SUPERVISORY PATENT EXAMINER

Brian Zimmerman

BRIAN ZIMMERMAN
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